

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RICHARD L. HURCHANIK,	:	NO. 1:10-CV-00042
	:	
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
BUTLER COUNTY COMMISSIONERS,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 16), in which the Magistrate Judge recommends that Defendants' Motion for Judgment on the Pleadings be granted and to which no objections were filed. For the following reasons, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation, GRANTS Defendants' motion (doc. 8) and DISMISSES this matter from the Court's docket.

Plaintiff, an attorney who served as a court-appointed public defender in Butler County since approximately 1987, brought this pro se action alleging that he was removed from the public defender list in 2008 as a result of age, sex and race discrimination as well as in retaliation "for exercising his rights to be employed as an elderly person" (doc. 1). He brings his claims under Title VII, 42 U.S.C. § 20003 et seq., as well as the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the corresponding Ohio laws (Id.). He alleges that Defendants

reduced the number of white, male attorneys while "retaining almost all or all the black and other minority attorneys" and "predominantly terminated...older male attorneys while keeping a discriminating number of younger female attorneys" (Id.).

Defendants moved for judgment on the pleadings on the basis that Plaintiff failed to include his claims for sex and race discrimination and his claim for retaliatory discharge in his EEOC complaint (doc. 8). In addition, Defendants argue that Plaintiff's claims must be dismissed because he failed to establish that he enjoyed an employment relationship with Defendants and that, instead, Plaintiff was an independent contractor (Id.).

The Magistrate Judge recommends that Defendants' motion be granted because Plaintiff failed to establish that Defendants were his employer for purposes of availing himself of the protections afforded employees by the federal employment discrimination statutes and because Plaintiff failed to satisfy the statutory prerequisite of exhausting his administrative remedies with respect to his claims of race and sex discrimination and retaliation (doc. 16). Having concluded that Plaintiff's federal claims should be dismissed, the Magistrate Judge recommends that Plaintiff's state-law claims also be dismissed (Id.).

Proper notice was provided to the parties under Title 28 U.S.C. § 636(b)(1)(c), including the notice that they would waive further appeal if they failed to file an objection to the

Magistrate Judge's Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Petitioner filed no objections to the report and recommendation of the Magistrate Judge, and the Court finds no clear error in the record. See Advisory Committee Notes to Fed. R. Civ. P. 72; Thomas v. Arn, 474 U.S. 140, 150(1985) ("It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). On the contrary, the Court finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct. Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation (doc. 16), GRANTS Defendants' Motion for Judgment on the Pleadings (doc. 8), DISMISSES WITHOUT PREJUDICE Plaintiff's state law claims, and terminates this matter from the Court's docket.

SO ORDERED.

Dated: February 23, 2011

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge